

HHB-CV-20-6062369-S	:	SUPERIOR COURT
	:	J.D. OF NEW BRITAIN
SARAH BRAASCH	:	
	:	AT NEW BRITAIN
Plaintiff,	:	
	:	
V.	:	
	:	
FREEDOM OF INFORMATION	:	
COMMISSION, YALE UNIVERSITY	:	
POLICE DEPARTMENT, ASSISTANT	:	
CHIEF, YALE UNIVERSITY POLICE	:	
DEPARTMENT	:	
	:	JULY 2, 2021
Defendants.	:	

BRIEF OF YALE UNIVERSITY POLICE DEPARTMENT AND ASSISTANT CHIEF,
YALE UNIVERSITY POLICE DEPARTMENT, IN OPPOSITION TO PLAINTIFF'S
ADMINISTRATIVE APPEAL FROM THE FREEDOM OF INFORMATION
COMMISSION

This is an appeal from a decision of the Freedom of Information Commission (“FOIC”) holding that the Yale University Police Department (“YPD”) and the YPD Assistant Chief did not violate the Freedom of Information Act (“FOIA”) when they declined to release body camera footage taken during YPD’s investigation of an incident involving Plaintiff Sarah Braasch. That footage contains uncorroborated allegations by Ms. Braasch of trespass and harassment against a woman whose “crime” appears to have been falling asleep while studying in a common area of her dormitory, the Yale Hall of Graduate Studies. Under a FOIA exception, records containing uncorroborated allegations of criminal conduct do not have to be disclosed. The FOIC concluded that the exception applied, based on the record of what happened here.

At 1:40 a.m. on May 8, 2018, YPD officers received a call from Ms. Braasch saying that she had come across a “complete stranger” in the Yale graduate school dormitory where she lived, in a common room on the 12th floor near her room. Understandably, the YPD responded swiftly, given the potential threat to the safety of Ms. Braasch and possibly other Yale students in the dormitory, promptly dispatching officers to the scene to investigate.

Upon arriving, one officer interviewed Ms. Braasch, who further alleged that the sleeping woman had been harassing her and had chosen that room in order to provoke an incident. The YPD officers conducted an investigation and concluded that the allegations were uncorroborated – the woman who had been sleeping in the common room was, in fact, a Yale graduate student who *lived in* the dormitory (the “Other Resident”), who had every right to be there and to use the common room.¹ Additionally, they concluded that the Other Resident had been studying in the

¹ Plaintiff’s brief repeatedly refers to the Other Resident by name. During the FOIC hearing, YPD objected to the use of the person’s name by Ms. Braasch’s counsel, and the Hearing Officer sustained the objection. R. 57-58, 100. YPD will therefore use the moniker “Other Resident” for the graduate student who lived in the dormitory and was the subject of Ms. Braasch’s call to the police.

common room and had fallen asleep, until Ms. Braasch woke her up, and that she was not harassing Ms. Braasch by taking a nap in the room.

On the contrary, when Ms. Braasch confronted the Other Resident on May 8, 2018 and called the YPD, the Other Resident felt as though she was being targeted by Ms. Braasch and harassed by YPD for being in her own residence hall. R. at 152. The incident created a “napping while Black” controversy that had garnered national media attention (*see* Appeal from the Decision of the Freedom of Information Commission, Dkt. No. 100.30, ¶ 28). Now, years later, Ms. Braasch seeks the YPD body camera footage from that night to publicly substantiate her claims that she called the police not because she was racist but because she was being harassed by the Other Resident. Publicly releasing the YPD footage, which the FOIC Hearing Officer found to contain Ms. Braasch’s allegations of trespass and harassment, would once again thrust the Other Resident into the limelight.² The Other Resident would have to respond, again, to a public controversy not of her making, in which the police were called to investigate whether she was trespassing in her own residence hall and harassing a woman by taking a nap.

The Connecticut Freedom of Information Act (“FOIA”) does not require release of law enforcement records containing uncorroborated allegations of criminal acts. The FOIC’s decision -- that the body camera footage of the YPD’s interview of Ms. Braasch contains uncorroborated allegations of criminal conduct -- is a straightforward application of well-established law to the factual Record before it. Nothing about that decision is arbitrary, illegal, unreasonable or an abuse of discretion.

² Ms. Braasch’s intention to reignite the public controversy and reassert her claims against the Other Resident in an effort to defend herself is evident from her insistence on using the woman’s name in her brief. She has done this even though the FOIC hearing officer specifically ruled during the hearing that the Other Resident’s name was irrelevant to the issues under consideration and should not be used. R. 56-58.

I. FACTUAL BACKGROUND

A. The Yale University Police Department and Its Body Camera Policy

“The Yale University Police Department is a free-standing police department in the State of Connecticut.” R. 86. YPD Officers “are selected and certified in accordance with the statutes of the State of Connecticut and the Standards enacted by the Police Officer Standards and Training Counsel.” R. 136. The uniformed Patrol Division performs a variety of services including, but not limited to, executing “the law enforcement responsibilities of the department.” R. 135.

YPD Officers are issued body worn cameras. These cameras serve a variety of purposes including “preserving visual and audio information for use in current and future investigations” and “improving evidence documentation for investigation [and] prosecutions . . .” R. 179. Body camera footage is referenced in investigative reports, including the report at issue here, and is considered part of the total investigative file. R. 89-90.

The YPD’s Body Worn Cameras policy prohibits disclosure or dissemination of video “in any form or manner outside the parameters of this policy pursuant to the departments FOI [Freedom of Information] policy and practice.” *Id.*; *see also id.* at 184. The policy allows for release of video files for review “[b]y the University’s representative” for potential student disciplinary actions. *Id.*

B. The Incident on May 8, 2018

1. Ms. Braasch’s Call

On Tuesday, May 8, 2018, at approximately 1:40 AM, Ms. Braasch called YPD and reported that there was “someone in . . . the room on the 12th floor of the Hall of Graduate Studies who . . . appears to be using the room as a sleeping accommodation, which is against the housing regulations.” R. 65-66. She also told the dispatcher that she “had no idea who the

person was. They were a complete stranger to me.” *Id.* at 66. When asked whether the individual was a “Yale affiliate,” Ms. Braasch told the dispatcher that she “did not know.” R. 59.

YPD was on high alert in May 2018, after an armed intruder had been found in a student housing area several weeks earlier. R. 88. From YPD’s perspective, “the fact that . . . the caller said that no one’s supposed to be there and asked [for] Yale police, indicated to us that there was a trespass incident” and, therefore, the YPD approached the call as an investigation of a potential criminal matter. R. 96. As the YPD Chief Ronnell Higgins explained, YPD takes calls of an unauthorized person in a dormitory building in the middle of the night very seriously. “Someone who is unauthorized to be in a, in a dorm, whether it be an undergraduate or graduate, is very serious. That’s where students sleep. That is, that is the housing area.” R. 87. Indeed, it would be “unconscionable for a police department [receiving a call of an unknown person at 1:40 a.m. in the morning] to respond and not try to make a determination as to whether or not there was criminal activity afoot.” R. 120.

2. YPD Investigation Into Trespass and Harassment

Upon receiving Ms. Braasch’s middle of the night call, YPD “responded within minutes And they began an investigation. They separated Ms. Braasch and the Other Resident to try to determine what was going on.” R. 96 (testimony of YPD Chief). Once separated, Ms. Braasch made “an additional allegation . . . of harassment.” R. 97. She told the YPD Officer that she believed that the Other Resident was complicit in harassing her during the evening of May 8, 2018 and was potentially one of a group of students who had been harassing her for months. R. 53 (“I did suspect that that could very likely be someone who had been using the room to harass me that evening and for months.”). Ms. Braasch alleged that the Other Resident had specifically selected the common room location in order to provoke an incident with her. R.

82 (“I said to her [the YPD Officer] repeatedly, I said to her that they did this to provoke an incident. They did this to provoke an incident.” (emphasis added)). Ms. Braasch also told a YPD Officer that the harassment she had suffered could be criminal. R. 64 (“I did say to him it is criminal. It is criminal.”). Ms. Braasch now claims that she did not intend to trigger an actual criminal investigation, but that is inconsistent with the context and nature of her call to the YPD and her statements that evening at the outset of the investigation. Indeed, Ms. Braasch testified that she called the YPD for help to “stop the harassment.” R. 55.

The YPD “conduct[ed] a criminal investigation to determine whether there was trespassing or not.” R. 111. In making the determination that the Other Resident was not trespassing, YPD considered the following facts that emerged as it conducted the investigation:

there w[ere] books, there was a computer strewn about. It’s common for students to fall asleep while studying for finals, and it was, in fact, finals time. So it wasn’t . . . unusual to see that. The woman was sleeping when the complainant actually confronted her and woke her up.

The woman had a key to the elevator. The woman had a key to the common room, and the woman had a key to the dorm. None of which is accessible without a key.

R. 98. The “sleeping student did, in fact, have a Yale ID card.” R. 99. Based on visual inspection of the common room and interviews with both Ms. Braasch and the Other Resident, the YPD concluded that “[t]here was no trespass. She [the Other Resident] had every right to be where she was.” *Id.* Understandably, “[s]he was angry that the police questioned her right to be where she was,” *id.*, i.e., in her own residence.

The YPD also concluded that there was no corroboration for Ms. Braasch’s claims of harassment. “[T]he student who was . . . alleged to have harassed the caller [Ms. Braasch], was actually sleeping. The woman who was sleeping was actually confronted by [Ms. Braasch] while she was sleeping in a common room in her dormitory studying during finals.” *Id.*

Following their investigation, following them taking into consideration all the facts and circumstances, to include statements made by Ms. Braasch, statements made by the woman who was sleeping, a visual assessment of the common room, the fact that the woman sleeping had a key to the elevator, she had a key to the common room, she had a key to the dorm. Taking all of that into consideration we – we made the determination that there was no criminal activity afoot.

R. 117.

3. The Conclusion of the Investigation

Upon completing its investigation, and having confirmed that the Other Resident “was not trespassing and was a resident of the building,” the YPD informed Ms. Braasch that the incident “was not a criminal matter.” R. 152; *see also* R. 187 (after confirming the Other Resident “was an authorized resident [who] had every right to be there” the YPD told Ms. Braasch that “this was not a police matter”). In other words, the allegations of criminal activity were uncorroborated – no crime had been committed. YPD wrote a final investigative report (R. 150-58), which reflects that the YPD investigation did not find evidence corroborating Ms. Braasch’s allegations of possible criminal activity. Accordingly, the report does not list a “victim” or indicate that a “crime” was committed, though it states that YPD was investigating “a report of an unwanted person/trespass complaint.” R. 152.

Having “concluded that this was not a criminal matter,” the YPD referred the incident to the Dean for the Yale Graduate School of Arts and Sciences to ascertain whether Ms. Braasch’s “conduct violated the Graduate School’s regulations for personal conduct.” R. 139 (referencing the Graduate School’s regulation prohibiting harassment or intimidation of any member of the University based on race). The Dean’s letter to Ms. Braasch notes that the Other Resident “felt that [Ms. Braasch was] harassing her.” *Id.* Providing the investigative file to Yale University was consistent with YPD’s body worn camera policy, R. 184, and is “[c]onsistent with [YPD’s] responsibilities as a higher education public safety unit,” to support the Yale administration’s

responsibility to make disciplinary determinations. R. 113. The information on the body camera videos has never been made available to the public by the Dean or other Yale officials; such disclosure without the student's consent would, as discussed in Part III.C below, violate federal law on student privacy and subject the University to possible sanctions.

C. Ms. Braasch's FOIA Request For YPD Body Camera Footage

On May 23, 2019, Ms. Braasch made a request for the YPD Body Camera footage from the May 8, 2018 incident. On July 9, 2019, YPD responded that it would not release the body camera footage as it was "created in connection with an uncorroborated allegation of a crime." R. 159. YPD also noted that "consistent with the federal Family Educational Rights and Privacy Act, [it had] not acknowledged the identify of [Ms. Braasch] or the other student involved." *Id.*

On July 29, 2019, Ms. Braasch filed her complaint with the FOIC alleging that YPD's withholding the body camera footage violates the Freedom of Information Act.

D. The Evidentiary Hearing and the FOIC's Final Decision

The FOIC held an evidentiary hearing on November 4, 2019, before Hearing Officer Danielle McGee, Esq. R. 22. Both sides were given the opportunity to introduce evidence and present witnesses. Ms. Braasch testified at length about her interactions with the YPD and what happened on the night of May 8, 2018. R. 46-85. Chief Ronnell Higgins testified on behalf of the YPD regarding the body worn camera policy, YPD's response to Ms. Braasch's call, its investigation of Ms. Braasch's allegations of trespass and harassment, and its determination that her allegations were uncorroborated. R. 85-126. During the hearing, Attorney McGee questioned each of the witnesses. After the hearing, YPD submitted the body camera videos in camera for Attorney McGee's consideration. R. 191-93. The parties also submitted post-hearing briefs. R. 195-259.

On August 20, 2020, Attorney McGee issued a Proposed Final Decision, which contained detailed findings of fact and conclusions of law about the YPD's May 8, 2018 investigation of Ms. Braasch's allegations. R. 260-268. The Proposed Final Decision determined that:

"the body camera footage at issue in this case was maintained by the YPD as part of the investigation file." (¶ 19)

the "in camera records are records of a law enforcement agency, namely the YUPD, which are not otherwise available to the public, and were compiled in connection with the investigation or detection of a crime or alleged crime." (¶ 20)

"each in camera record depicts the interactions of the complainant with the YUPD officer that responded to the scene and include[s] the complainant's recitation of her allegations." (¶ 21)

"the complainant's allegations are not supported, substantiated or strengthened by the facts uncovered by the YUPD in conducting their investigation. It is therefore concluded that the in camera records contain uncorroborated allegations that are subject to destruction, within the meaning of §§ 1-210(b)(3)(H) and 1-216, G.S." (¶ 21)

"the in camera records" sought by Ms. Braasch "are permissibly exempt from disclosure" and that, therefore, YPD "did not violate the FOI Act as alleged by the complainant." (¶ 22)

R. 266.³ Each of those findings and conclusions is amply supported by the record. The proposed decision goes on to respond to each of Ms. Braasch's arguments about why the uncorroborated allegations exemption should not apply. R. 266-268.

On September 9, 2020, the FOIC listened to argument by counsel for both Ms. Braasch and YPD before unanimously adopting the Proposed Final Decision. R. 295.

II. THE STANDARD FOR REVIEWING THE FOIC'S DECISION IS HIGHLY DEFERENTIAL

The Court's review of the FOIC's Final Decision under the Uniform Administrative

³ The hearing officer and the FOIC also determined that, as required by Conn. Gen. Stat. § 1-210(b)(3)(H), the investigation records were "subject to destruction" under § 1-216, finding that "Chief Higgins credibly testified that, but for the [FOIA] request and pending appeal, the respondents would have destroyed the in camera records." R. 267 at ¶ 26; R. 303 at ¶ 26. Ms. Braasch does not challenge that finding on appeal.

Procedure Act, Conn. Gen. Stat. § 4-166 et seq., is highly deferential. The Court determines whether “the FOIC acted unreasonably, arbitrarily, illegally or in abuse of its discretion and whether the FOIC’s decision is supported by the evidence.” *Connecticut Humane Soc’y v. FOIC*, 218 Conn. 757, 792 (1991); *see also Wiese v. FOIC*, 82 Conn. App. 604, 608-09 (2004) (“Even as to questions of law, the court’s ultimate duty is to decide *only* whether, in light of the evidence, the agency acted unreasonably, arbitrarily, illegally or in abuse of its discretion.” (emphasis added)). A trial court may not “retry the case or substitute its judgment for that of the commission,” because “[t]he scope of review is very restricted.” *Id.* at 608. “The practical construction placed on the statute by the agency, if reasonable, is highly persuasive.” *Id.* at 609 (quoting *Ottochian v. FOIC*, 221 Conn. 393, 399 (1992)).⁴

As discussed below, the FOIC’s decision involved a straightforward application of unambiguous statutory language to the record facts and is consistent with FOIC and judicial precedent.

III. THE BODY CAMERA FOOTAGE FALLS WITHIN THE FOIA EXCEPTION FOR UNCORROBORATED ALLEGATIONS

The police body camera interviews of Ms. Braasch are protected from disclosure under FOIA because they are part of an investigation containing uncorroborated allegations of criminal activity. The FOIA states “Nothing in the Freedom of Information Act shall be construed to require disclosure of: . . . (3) Records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crimes, if the disclosure of such records would not be in the public interest because it would result in the

⁴ Ms. Braasch suggests that deference to the agency’s decision is not warranted here, but she acknowledges that the statutory UAPA standards of review under Conn. Gen. Stat. § 4-183(j) are controlling. *See* Pl. Br. at 5-6.

disclosure of . . . (H) uncorroborated allegations subject to destruction pursuant to section 1-216.” Conn. Gen. Stat. § 1-210(b). Section 1-216, in turn, provides that “records of law enforcement agencies consisting of uncorroborated allegations that an individual has engaged in criminal activity shall be reviewed by the law enforcement agency . . . If the existence of the alleged criminal activity cannot be corroborated . . . the law enforcement agency shall destroy such records.” Conn. Gen. Stat. § 1-216.

The FOIA “recognizes competing interests and the need for some governmental records to remain confidential” based upon a balancing of “the public’s right to know . . . and private needs for confidentiality. In those limited circumstances where the legislature has determined that some other public interest overrides the public’s right to know, it has provided explicit statutory exceptions.” *Vogth-Erikson v. Demore*, No. CV030197020S, 2004 WL 2039703, at *1 (Conn. Super. Ct. Aug. 13, 2004) (quoting *Bona v. Freedom of Information Commission*, No. CV940123208 (Conn. Super. Ct. Aug. 10, 1995), *aff’d* 44 Conn. App. 622 (1997)). With respect to the uncorroborated allegations exception, “[t]he legislative intent behind the statutory exception . . . is to protect individuals from uncorroborated allegations that would be significantly damaging to their reputation.” *Vogth-Erikson*, 2004 WL 2039703, at *1.

To determine whether the information at issue is subject to disclosure, the Court undertakes a two-step analysis. “First, the court must determine whether the allegations in the requested records regard criminal activity Second, if the court determines that the allegations regard criminal activity, then it must determine if the allegations are corroborated.” *Id.* at *2.

A. The Body Camera Footage Contains Allegations of Criminal Activity

After the evidentiary hearing, review of the body camera footage, post-hearing briefing

and argument before the FOIC, the FOIC determined that the body camera footage contains allegations of criminal activity – namely trespass and harassment. These findings are supported by the Record.

1. Ms. Braasch Alleged, and the YPD Investigated, a Claim of Trespass

The FOIC found that Ms. Braasch called YPD alleging “that a woman, who she did not know, was sleeping in a common room.” R. 301 at ¶ 15. This finding is supported by the Record. In the very early morning of May 8, 2018, Ms. Braasch called the YPD and stated that an unknown person was found sleeping in a common room within her dormitory, the Hall of Graduate Students. Ms. Braasch testified the person she encountered in the common room “was a complete stranger to me. I had no idea. I’d never seen her before. I had no idea who she was. I didn’t know her name. I didn’t know if she was a Yale affiliate. I didn’t know if she was a student. I didn’t know if she was a resident. I didn’t know if she was a guest of the resident. And I made this clear to the – whichever officer answered the phone. . . .” R. 58-59.

The FOIC found that, in response YPD “dispatched three police officers (with a supervising officer arriving later to the scene) to conduct a criminal investigation of the allegations that an unauthorized person was in the residence hall trespassing and that this person was harassing” Ms. Braasch. R. 301 at ¶ 16. Again, this finding is unequivocally supported by the Record. As Chief Higgins testified, the YPD must treat all calls about an unknown person in a student dormitory, particularly in the middle of the night, as a potential trespass until they have established the identity of the individual in question. R. 96, 120. The investigation report prepared at the time says that YPD was dispatched “on a report of an unwanted person/trespass complaint.” R. 152 (emphasis added). Trespass is a crime. Conn. Gen. Stat. § 53a-108(a) (“A person is guilty of criminal trespass in the second degree when, knowing that such person is not

licensed or privileged to do so, (1) such person enters or remains in a building . . .”).

During the ensuing investigation, YPD officers met with Ms. Braasch and the Other Resident, and recorded the conversations on their body cameras. The YPD investigated the allegation of trespass specifically by, among other things, determining whether the Other Resident had a valid Yale Identification card and whether she was a resident of the graduate studies dormitory. R. 187. During those conversations, the YPD officers directly responded to the allegations of trespass and concluded that they were unfounded.

2. Ms. Braasch Alleged, And YPD Investigated, A Claim of Harassment

The FOIC found that Ms. Braasch also alleged that the Other Resident harassed her and “may have been sleeping in the room to provoke [Ms. Braasch] as part of an ongoing conflict” with Ms. Braasch. R. 301 at ¶ 15. This finding is supported by the Record. While investigating the trespass, the YPD officers were informed by Ms. Braasch that she had been harassed by the student in the common room (and by other students as well), which Ms. Braasch explicitly characterized as potentially criminal conduct. R. 64 (“I did say to him it is criminal. It is criminal.”); *see also* R. 65 (“And I was just basically saying like, well, I mean, harassment could, you know, potentially be criminal.”). Ms. Braasch speculated to the YPD that the Other Resident was there “to provoke an incident”; “They did this to provoke an incident.” R. 82. She testified that she “had been harassed all evening,” R. 52, and that she suspected that the Other Resident “could very likely be someone who had been using the room to harass me that evening.” R. 53.

The FOIC found that YPD officers were dispatched “to conduct a criminal investigation of the allegations . . . that this person [the Other Resident] was harassing the complainant.” R. 301 at ¶ 16. This finding is supported by Ms. Braasch’s express statements to the investigating

YPD officers that she was being criminally harassed (R. 64-65) and by Chief Higgins's testimony that Ms. Braasch's allegation of harassment was unfounded because "the [Other Resident] was actually confronted by [Ms. Braasch] while she was sleeping in a common room in her dormitory studying during finals." R. 99.

The FOIC, after reviewing the body camera footage, found that it "depicts the interactions of [Ms. Braasch] with the [YPD] officers that responded to the scene *and include [Ms. Braasch's] recitation of her allegations.*" R. 302 at ¶ 21 (emphasis added). This finding is, again, consistent with Ms. Braasch's testimony regarding what she told the YPD. Taken as a whole, Ms. Braasch's statements on the body camera tapes allege harassment by the sleeping student, which became part of the YPD investigation that night.

3. Ms. Braasch's Post Hoc Rationalizations Are Irrelevant

Ms. Braasch's arguments that there were no allegations of criminal activity (Pl. Br. at 8-10) are contradicted by the Record.

a. *Ms. Braasch Relies Upon Hindsight to Discount Her Allegations*

Ms. Braasch relies upon the final YPD investigatory report, reflecting YPD's conclusions that there was neither a "victim" nor a crime, to argue that she never alleged a crime. Pl. Br. 8. The FOIC considered this argument and rejected it. "[I]t is not surprising that the Incident/Investigation Report, which documents [YPD's] conclusion that the allegations were unfounded, does not identify a victim, perpetrator, or a crime. The conclusion that the [YPD] reached after its investigation does not prove that the allegations which prompted the investigation at issue were not criminal in nature." R. 304 at ¶ 28. This finding is supported by the Record. Chief Higgins made clear in his testimony that the reference to the incident not being "a police matter" reflected the YPD's "determination that there was no criminal activity to

report,” R. 117, not that there had been no criminal allegations and no criminal investigation in the first place. If Ms. Braasch’s reasoning were adopted, any time the police determined that allegations of criminal wrongdoing were uncorroborated it would mean that no such allegations were made in the first place and the exception for uncorroborated allegations would never apply. Someone could make unfounded allegations of trespass, or assault, or financial crimes – and then be free to force the police to make the allegations public, destroying the reputation of the victim, on the ground that the police’s final report shows the allegations were uncorroborated.

Similarly, Ms. Braasch argues that she did not allege trespass because “it was readily apparent to all that [the Other Resident] was a ‘Yale affiliate’ when Ms. Braasch called the non-emergency line.” Pl. Br. at 10. Ms. Braasch, however, testified that, when asked, she told the YPD dispatcher the opposite -- that she did not know if the Other Resident was, in fact, a Yale Affiliate. R. 59 (the YPD dispatcher “asked if I knew who this person was and if they were a Yale affiliate. And I said no, I did not know.”); *see also* R. 58 (“I didn’t know if she was a Yale affiliate. I didn’t know if she was a student. I didn’t know if she was a resident. I didn’t know if she was a guest of the resident.”).

When they received a call from a distressed student in the middle of the night alleging that she came upon a complete stranger in her dormitory, near her room, the YPD had little choice but to treat it as an allegation of possible criminal activity and respond immediately. Imagine that, instead of a student studying, the alleged trespasser had been just that – a trespasser in the dormitory who might have been armed. As Chief Higgins testified, it would be “unconscionable” not to respond and investigate to determine if there was criminal activity

taking place. R. 120.⁵

b. *Ms. Braasch Did Not Need To Dial 911 or Cite Criminal Statutes to Allege A Possible Crime*

Ms. Braasch repeatedly emphasizes that she called the “non-emergency” line at the YPD, and not 911, suggesting that shows that she did not intend to make and did not make allegations of criminal activity. Pl. Br. at 2, 3, 4, 7, 10. As Chief Higgins testified, there is no “non-emergency” line at the YPD; Ms. Braasch called the main number of the YPD, and that line is routinely used for all kinds of calls, including complaints of criminal activity. R. 86-87. And it’s irrelevant whether Ms. Braasch’s, unspoken, subjective intent at the time was to initiate a criminal investigation. *See* R. 83 (Ms. Braasch testifying that she had not told the YPD that she did not want the Other Resident arrested). The police had to quickly to respond to what she actually *said* – and investigate the possible presence of an intruder in her dormitory at 1:40 a.m. – and not probe whether in her mind she really intended to allege criminal activity, or whether she was calling the YPD in their “peacekeeping” function or in their law enforcement function. Pl. Br. at 12. The legal question is whether the police records contain uncorroborated allegations of criminal conduct and not whether the person making allegations has some undisclosed intention. *See Vogth-Erikson*, 2004 WL 2039703, at *2 (“First, the court must determine whether the allegations in the requested records regard criminal activity. . .”)

Similarly, Ms. Braasch argues that YPD could not have believed it was responding to a crime because Ms. Braasch did not recite the statutory elements of the relevant crimes in her call

⁵ Even if Ms. Braasch had explicitly told the YPD that she was not requesting a criminal investigation into a specific alleged crime, given the information she conveyed and the context of her call, the YPD would have dispatched officers to investigate whether, in fact, the “complete stranger” was an intruder who was trespassing in a dormitory in the middle of the night.

to the YPD. Pl. Br. 10. But as Chief Higgins testified: “Most citizens who contact the police department don’t quote Connecticut General Statutes in defining the behavior that they’re calling on. They contact the police to describe the behavior and the police have to make an assessment to determine where, what type of crime they’re investigating.” R. 121.⁶ This is precisely what Ms. Braasch did, first in calling the police to report the presence of an unknown individual in a dormitory common area in the middle of the night and then in alleging that the Other Resident had selected that room in order to “provoke an incident” as a form of harassment. In response to these allegations, YPD conducted a criminal investigation into trespass and harassment and determined that Ms. Braasch’s allegations were uncorroborated. R. 75-78.

Furthermore, Ms. Braasch cites no authority for the proposition that to constitute an allegation of criminal activity, the person making the allegation needs to recite each element of a potential crime. In an emergency, such a requirement would be unworkable. Imagine a call to police in which someone alleges an unknown individual is inside their home in the middle of the night; the police would not waste time before responding by asking the caller whether the unknown individual had entered unlawfully and had the requisite criminal intent. They would

⁶ Ms. Braasch argues that the YPD could not reasonably have concluded that there may have been criminal trespass in the first degree because “there was no allegation of any order to leave by an authorized person.” Pl. Br. at 10. Again, this assertion is contravened by the Record. The YPD Report states “Braasch also reported, she told [the Other Resident] she was not allowed to sleep in the common room and needed to leave.” R. 152.

Ms. Braasch argues that there was no criminal trespass in the second or third degree because “there is no suggestion [the Other Resident] was knowingly in the building (let alone in a common room) without license or privilege.” Pl. Br. 13-14. However, that assertion again relies upon the conclusion of the investigation, i.e., that the Other Resident was a Yale student and resident of the dormitory, to explain away the initial allegations. When Ms. Braasch testified that she called the YPD to say there was an unknown person in a dormitory common room, who was a complete stranger to her, and that she didn’t know if the individual was a Yale affiliate, there was certainly at least a “suggestion” that an individual was present without license or privilege.

respond and investigate. It is the investigation that would determine whether there are facts to support an allegation that a crime was committed. That is what happened; Ms. Braasch alleged trespass and harassment, the YPD investigated and determined that no crime had, in fact, been committed.

c. *The FOIC Findings Accurately Reflect Ms. Braasch's Testimony*

Similarly unavailing is Ms. Braasch's argument that she made no allegations of potential criminal activity and that, therefore, the FOIC improperly relied solely on the impressions of the YPD. Pl. Br. 10. First, the hearing officer listened to the testimony of both Ms. Braasch and YPD Chief Higgins and questioned them both. And second, Ms. Braasch's argument that she made no allegations of criminal activity contradicts the record, including:

- (1) her testimony describing allegations that an unknown person was present in the residence hall, R. 58-59, and her testimony expressly telling YPD that the harassment was potentially criminal), R. 64-65;⁷
- (2) the contents of the body camera footage, R. 302 at ¶ 21 ("It is found that each in camera record depicts the interactions of the complainant with the YUPD officers that responded to the scene and include the complainant's recitation of her allegations." (emphasis added)); and,
- (3) the context of her call to YPD, informing them in the middle of the night that there was a complete stranger in her dormitory near her room, who shouldn't be there – which YPD had to take seriously as an allegation of a possible intruder who was trespassing. R. 87, 120.

Thus, the FOIC's findings are supported by the testimony of both Ms. Braasch herself and the YPD.⁸

⁷ Even now Ms. Braasch continues to make allegations of harassment against the Other Resident, Pl. Br. 2 (describing the "unknown persons" that "used that room to harass her" and referring to "her harassers having seemingly vacated the space"); *id.* at 3 (reciting Ms. Braasch's belief that the Other Resident "could have been one of her harassers").

⁸ Ms. Braasch also argues that the FOIC erred by giving any weight to the YPD Chief's testimony, because "when police officers themselves do not witness the underlying transaction, the courts do not give weight to their conclusory statements." Pl. Br. at 10 (citing *Solveira v.*

d. *Ms. Braasch's Slippery Slope Rhetoric Is Unavailing*

Ms. Braasch argues that the FOIC's application of the uncorroborated allegations exception "treat[s] every police response as responding to allegations of criminal activity" and "stretche[s] the exemption beyond reason" – to the point where even the body camera footage of the deaths of Eric Garner and George Floyd would be withheld under the exemption. Pl. Br. at 10-11. Leaving aside the extraordinary hyperbole of that example, the argument makes little sense.⁹ Of course, police receive calls for assistance that do not allege criminal activity, and when they do, the exception does not apply. That's just not the case when the police receive a middle of the night call from a frightened student saying there's a complete stranger in her dormitory, or when the same student tells the police that the person was harassing her. Had Ms. Braasch called to say merely that a fellow student and resident had fallen asleep in the common room and that displeased her, we would not be here.

B. The Allegations of Criminal Activity Were Uncorroborated

The second prong of the test asks the Court to determine whether the allegations of criminal activity have been corroborated. "The Commission interprets the term 'corroborate' as 'to strengthen, to add weight or credibility to a thing by additional and confirming facts or

Meketa, No. CV0309394S, 1995 WL 43703, at *2-3 (Conn. Super. Ct. Jan. 31, 1995)). *Solveira* involved a routine application of the hearsay rule to a police report's recitation of facts of which the officer did not have first-hand knowledge. The hearsay rule, however, doesn't apply in FOIC proceedings (*see* FOIC Regulations, Section 1-21j-37(a)-(f) (listing the rules of evidence that apply and not including hearsay)). Even if hearsay rules applied in such proceedings, they wouldn't bar the YPD testimony here because, among other reasons, the YPD's findings are reflected in a report that would fall within the business records exception and YPD's references to Ms. Braasch's statements would be excepted from hearsay rules as admissions of a party.

⁹ Ms. Braasch's attempt to invoke the tragic deaths of Messrs. Garner and Floyd to support her claim, Pl. Br. 10, is inappropriate and unhelpful. There is a world of difference between using a FOIA exception to protect the Other Resident from Ms. Braasch's unfounded accusations and using body cameras to protect the public from excessive force by the police.

evidence,’ ‘to state facts tending to produce confidence in the truth of a statement made by another,’ and ‘to give increased support to; make more sure or evident.’” R. 301 at ¶ 13; *see also Bessette v. Police Dep’t City of Norwich*, Docket # FIC 2018-0003 ¶ 18 (2018). Here, Ms. Braasch’s allegations of criminal activity were uncorroborated, as the FOIC correctly found based on the record before it.

1. The Trespass Claim Is Uncorroborated

The FOIC found that YPD “concluded that the accused person was a student and resident of the hall and therefore was not trespassing It is found that the complainant’s allegations are not supported, substantiated or strengthened by the facts uncovered by the [YPD] in conducting their investigation. It is therefore concluded that the in camera records contain uncorroborated allegations” R. 302 at ¶ 21. This finding is supported by the Record.

At the end of the investigation, the YPD Officers determined that the Other Resident was not trespassing. They noted the following:

- she had a valid Yale student identification, R. 99;
- she had keys to the Hall of Graduate Studies, to the elevator, and to the common room in the building – all of which were only accessible with a key. R. 117 (“[T]he woman sleeping had a key to the elevator, she had a key to the common room, she had a key to the dorm.”); and,
- her books and laptop were open and out on the desk in the common room where she had been sleeping. R. 98.

Based on these facts, it was clear to the YPD that the Other Resident was a student and a resident of the graduate dorm who had every right to be in the common room that evening. R. 187 (“[T]he student who had been in the common room was an authorized resident and had every right to be there.”). Therefore, the allegation of trespass was uncorroborated.

2. The Harassment Claim Is Uncorroborated

The FOIC found that YPD “concluded . . . that the accused person was not harassing the complainant. It is found that the complainant’s allegations are not supported, substantiated or strengthened by the facts uncovered by the [YPD] in conducting their investigation. It is therefore concluded that the in camera records contain uncorroborated allegations” R. 302 at ¶ 21. This finding is supported by the Record.

Ms. Braasch alleged to the YPD that the Other Resident had chosen to sleep in the common room in order to “provoke an incident,” R. 82, and as part of a campaign of ongoing harassment. R. 53. After interviewing both students, the YPD concluded that there had been no harassment. The sleeping student had every right to be in the common room. R. 187. Beyond that, it was Ms. Braasch who had initiated the interaction by waking the Other Resident and confronting her. R. 99. Thus, despite Ms. Braasch’s assertions to the contrary, the record supports the YPD’s conclusion and the FOIC’s finding that there had been no harassment that night.

3. The Underlying Facts Are Not Undisputed and Do Not Show that Ms. Braasch’s Allegations Were Corroborated

Ms. Braasch argues that the underlying facts of what happened on May 8, 2018 are undisputed, and therefore they were corroborated. Pl. Br. 11-12. For the exemption to apply however, it is the *factual allegations of criminal activity* that must be uncorroborated. Here, Ms. Braasch called the police in the middle of the night and alleged that there was a complete stranger in her dormitory common room who had no right to be there. Upon investigation, that allegation proved to be uncorroborated – the Other Resident was in fact a graduate student who lived in the dormitory and had the right to be there. Ms. Braasch told the police that the Other Resident was criminally harassing her, and that she had deliberately gone to sleep in the common

room to provoke an incident and continue that harassment. Again, upon investigation, those factual allegations proved to be uncorroborated, contrary to Ms. Braasch's contention on appeal. The FOIC's findings that her allegations "were uncorroborated because the other person did not trespass, nor did she harass the complainant as alleged," R. 303 (§ 25), are supported by the Record. Based on the hearing officer's in camera inspection, the FOIC found that "the in camera records reflect the complainant's reiteration of uncorroborated allegations," *id.*, and correctly held that the exception applied.¹⁰

Contrary to Ms. Braasch's contention (Pl. Br. at 12), the FOIC's decision here is not inconsistent with *Perkins v. Chief, Police Dep't, City of Norwich, et al.*, Dkt. #FIC 2019-0285 (Aug. 28, 2019). In *Perkins*, there was no dispute about the facts – an individual had entered a home, despite no trespassing signs and having been asked to stay away and had removed items from the home. *Id.* at §§ 12-13. The Police investigated and determined there was probable cause for a trespass charge but did not arrest the individual because the occupant did not want to press charges. *Id.* at § 12. *Perkins*, therefore, stands for the proposition that where the allegations of criminal activity are corroborated, the fact that no criminal charges are brought is

¹⁰ Ms. Braasch says in her brief that the "FOIC acknowledges that the 'underlying facts in this matter are not disputed.'" (Pl. Br. at 11). But that is not what the FOIC decision said. The finding she references states that the "*complainant also argues* that because *some* of the underlying facts in this matter are not disputed, her allegations are corroborated." R. 303 (emphasis added). The finding goes on to cite the cherry-picked fact Ms. Braasch relies on as undisputed – "that the accused [student] was resting in the common room and such is not disputed by the respondents" (*id.*). Of course, that fact wasn't disputed by YPD; it was the YPD who determined that the Other Resident had been in the common room studying for finals when she fell asleep there, and that she was not there to harass Ms. Braasch. R. 98. It was Ms. Braasch who accused the Other Resident of harassing her "that evening and perhaps for months," R. 53-54, and alleged that she was using the common room that evening to "provoke" an incident. R. 82. Those are the factual allegations of harassment made by Ms. Braasch that were disputed and found to be uncorroborated, and those uncorroborated allegations are contained in the video recordings that Ms. Braasch wants the YPD to publicly disclose. R. 302 (§ 21).

insufficient to trigger the exception for uncorroborated allegations. Here, however, the FOIC's decision was not based on the fact that no criminal charges were brought, but on the absence of facts corroborating Ms. Braasch's allegations of trespass and harassment in the first place.

C. Neither FOIA Nor the State or Federal Constitutions Require Disclosure of The Body Camera Tapes on the Ground that They Have Already Been Made Public

Ms. Braasch makes much of the fact that the YPD provided the Dean of the Graduate School at Yale with a copy of the YPD's investigative file, including the body camera footage, so that the Dean could determine whether Ms. Braasch had violated University disciplinary policies barring racial harassment and discrimination. Ms. Braasch argues that doing so effectively made the records public, and that it was unlawful and unconstitutional to then refuse to provide those public records to her. Pl. Br. at 12-14.

Ms. Braasch's argument is premised largely on her contention that "[i]f records can be released to Yale administration, who are free to disseminate them to anyone else, then it demonstrates [YPD's] caprice in claiming they are exempt from disclosure." Pl. Br. at 13. The investigative records were provided to the Dean for use in a private student disciplinary proceeding, consistent with YPD's body camera policy, R. 184, and with YPD's role as a part of the University. And the Dean was prohibited by federal law from making those records public. The Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g; 34 C.F.R. § 99.1 et seq., prohibits educational institutions from disclosing any personally identifiable information from a student's education records to anyone unless the student provides written consent or a specific FERPA exception allows the disclosure. (34 C.F.R. §§ 99.30, 99.31). FERPA allowed for sharing the body camera footage with Dean Sleight because he was a "school official" who had a "legitimate educational interest" in it, i.e., he needed it to consider

possible disciplinary action. *See id.* § 99.31(1)(i)(A)); *Hajjar-Nejad v. George Washington University*, 873 F. Supp. 2d 1, 125 (D.D.C. 2012) (“A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.”).¹¹ That exception would not allow further dissemination of the footage. Indeed, Chief Higgins testified that under YPD’s understanding of FERPA the information would not be further disseminated. R. 116, 126-27.¹² Moreover, FERPA required the Dean to use the records solely for the purpose for which they were disclosed to him, i.e., in the student disciplinary process regarding Ms. Braasch, and barred the Dean from further disclosing the records without student consent. 34 C.F.R. § 99.33(a).

FERPA is also the reason why the University offered Ms. Braasch, in connection with her disciplinary hearing, an opportunity to view, but not be given a copy of, the body camera footage. FERPA requires an educational institution to provide a student with “the opportunity to inspect and review the student’s education records,” 34 C.F.R. § 99.10(a), but doesn’t require the institution to provide a copy of the records.¹³ The YPD and the University didn’t violate

¹¹ While FERPA does not define who is a “school official” with a “legitimate educational interest” in particular education records, the U.S. Department of Education generally interprets the term to include “administrators” and “members of committees and disciplinary boards.” U.S. Dep’t of Ed, “FERPA General Guidance for Students,” <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html>

¹² The Chief testified: “In higher education, those police report[s] are part of the student’s record. We are all trained in FERPA and we take that very seriously. It would be irresponsible for that dean to release that police report to anyone outside of his office and use it expressly—he has to use it for the expressed purposes of administering his, his student affairs role.” R. 116. Chief Higgins testified that where investigatory files are disclosed to Yale administrators, his expectation is “that the report would be shared within that office of, of administrators for the express use of administering the University rules and regulations.” R. at 126-27.

¹³ The FERPA regulations do not require an educational institution to provide a copy of requested education records except where “circumstances effectively prevent the parent or

FOIA by complying with their obligations under federal law.

Nor did they violate the federal or state constitutional guarantees of equal protection, contrary to Ms. Braasch's claim.¹⁴ (Pl. Br. 12-14) As Ms. Braasch acknowledges, equal protection is implicated where persons are "similarly situated." *Id.* at 13. Ms. Braasch and the Dean are not similarly situated. The Dean had access to Ms. Braasch's records as an administrator of a private university, subject to the strict constraints of FERPA, while Ms. Braasch seeks access to a copy of the records under FOIA – a right she has only if the uncorroborated allegations exception does not apply. Under federal law, the Dean cannot make her education records public without her consent, whereas if Ms. Braasch receives a copy of the body camera footage under FOIA she is free to release them publicly, as she testified she intends to do. R. 85.¹⁵

eligible student from exercising the right to inspect and review the student's education records. . . .” *Id.* at § 99.10(d).

¹⁴ Notably, the FOIC has long held that a public agency does not waive its right to claim an exemption under the FOIA through prior disclosure. *See e.g., Goshdigian v. Town of West Hartford*, Docket #FIC 2005-112 (September 14, 2005) (use and publication of information in a different context does not waive the right to claim exemption); *General Electric Company v. State of Connecticut, Office of the Attorney General, and State of Connecticut, Department of Environmental Protection*, Docket #FIC 1998-089 (April 28, 1998) (“The Commission . . . concludes that waiver of an exemption by a public agency in one instance does not act to abrogate the claim of a statutory exemption under the FOI Act in every other instance.”). There has never been any suggestion that asserting an exemption with respect to records that were previously released violates either the State or Federal Constitutions.

¹⁵ The state and federal equal protection clauses also do not apply because YPD was not acting as a state actor when it provided the body camera footage to the Dean, and Ms. Braasch has cited nothing to the contrary. YPD's disclosure of the body camera footage to a Yale administrator for use in a private student disciplinary proceeding was done in its role as a part of a private university, not as a governmental actor engaged in state action for constitutional purposes. R. 113 (Chief Higgins testifying that YPD provided the body camera footage “[c]onsistent with our responsibilities as a higher education public safety unit”). There is no legal or factual basis for the proposition that in producing the body camera footage to Dean Sleight, YPD was a “state actor.” *See Brentwood Acad. v. Tennessee Secondary School Athletic Ass’n*, 531 U.S. 288, 295 (2001) (“Thus, we say that state action may be found if, though only if, there is such a ‘close

Ms. Braasch’s argument that the uncorroborated allegations exception is inapplicable because the identities of the two students involved in the May 8, 2018 incident, are already public is particularly troubling. Pl. Br. at 14. That argument has no basis in the language of the FOIA uncorroborated allegations exception itself and it would completely undermine the purpose of the exception, which is to protect an accused person’s reputation from unfounded allegations. If the exemption could be circumvented simply by publicly identifying the subject of the uncorroborated allegations, nothing would stop individuals from making uncorroborated statements to the press in order to ensure access to police records that would otherwise be exempt from disclosure. This would effectively undo the protection the legislature provided in the exemption.

Ms. Braasch argues that, under the FOIC’s decision in *de Leon v. Bridgeport*, the uncorroborated allegations exception does not apply to the records she seeks because they have been made public and, therefore, are effectively not subject to destruction, as required by the exception. Pl. Br. at 14; *de Leon v. Bridgeport*, #FIC 2019-0161 (2019), *aff’d in relevant part Bridgeport v. Freedom of Info. Comm’n*, HHB-CV20-6060495-S, Memorandum of Decision, Dkt. No. 134.00 (Conn. Super. Ct. Jan. 12, 2021). That is wrong. In *de Leon*, an individual admitted to making false allegations of sexual assault and was subsequently convicted for making those false claims. Thus, the investigatory records at issue were evidence of a corroborated crime – falsely reporting an incident – for which an individual was serving prison time. *Id.* at ¶ 17. Because the records were evidence of a *corroborated* crime, they were not subject to destruction pursuant to Conn. Gen. Stat. § 1-216, and Bridgeport did not produce any

nexus between the State and the challenged action’ that seemingly private behavior ‘may be fairly treated as that of the State itself.’” (emphasis added)).

witnesses to testify otherwise. *Id.*

Here, the body camera footage is not evidence of a corroborated crime. Unlike the accuser in *de Leon*, Ms. Braasch was not arrested and charged with making false reports to the YPD. And, as the FOIC found, “Chief Higgins credibly testified that, but for the request and pending appeal, the respondents would have destroyed the in camera records,” and therefore the records were therefore subject to destruction under § 1-216. R. 303 at ¶ 26.

D. YPD Is Not Required to Redact Investigatory Files

The FOIC’s determination that YPD was not required to produce redacted body camera footage is consistent with well-established FOIC and appellate precedent. R. 303 at ¶ 30. Where a police investigative file contains uncorroborated allegations of possible criminal conduct, “[t]he Commission has consistently concluded that the entirety of the record of an investigation of uncorroborated allegations of criminal activity is exempt from disclosure pursuant to . . . § 1-210(b)(3)(H), G.S.” *Pinto v. Chief, Police Department, Town of Stratford*, #FIC 2013-071 ¶ 15 (Sept. 25, 2013) (gathering cases) (emphasis added); *see also Doody v. Chief, Police Dep’t, Town of North Branford*, #FIC 2015-815 ¶¶ 15-16 (Jun. 8, 2016) (citing *Peter Bosco v. Chief, Police Department, Town of Wethersfield*, Docket #FIC 2005-031 (Nov. 9, 2005) for proposition that “all 22 pages of investigation report comprised of incident report; supplemental reports; statements of the complainant, the suspect and another individual case closure report exempt under [FOIA]”); *see also Bessette v. Police Dep’t City of Norwich*, Docket #FIC 2018-0003 ¶ 18 (2018) (even though police provided redacted records, under uncorroborated allegations exception they were not required to do so).¹⁶

¹⁶ In *Bessette* the Commission held that the City of Norwich Police Department had not violated the FOIA by redacting the records in question. The Commission was careful to note, however, that the City of Norwich Police Department would have been within its rights to withhold the

The FOIC's holding is also consistent with *Bona v. Freedom of Inf. Comm'n*, 1995 WL 491386 (Conn. Super. Aug. 10, 1995), *aff'd*, 44 Conn. App. 622 (1997). In that case, the FOIC had ordered disclosure of a police investigatory report with redactions of allegations of uncorroborated criminal activity. The Court discussed the history of the uncorroborated allegations exception – explaining that while the exception had originally only provided for redaction, it was expanded “only two years later” to encompass the entirety of the documents subject to destruction. 1995 WL 491386 at *12. As a result, in that case, the entirety of the three- page investigatory report was subject to the exception. *Id.* at *17.¹⁷

Ms. Braasch also argues that she could have recorded the incident herself. Pl. Br. 15-16. This is undoubtedly true, and had she done so we would not be here arguing about body camera footage. However, the question is not whether Ms. Braasch could have independently recorded her interactions with the police – the question is whether YPD is required under the FOIC to turn over its own investigatory records containing uncorroborated allegations of criminal activity. The answer, as found by the FOIC, is that it is not.

V. CONCLUSION

For the foregoing reasons, YPD respectfully requests that the Court affirm the Final Decision of the FOIC.

entire investigative file instead of merely making redactions. “The Commission consistently has concluded that the entirety of a record of an investigation of uncorroborated allegations of criminal activity is exempt from disclosure pursuant to § 1-210(b)(3)(H), G.S. Therefore, although the respondents provided a redacted copy of the incident report to the complainant, they were not required to do so.” *Bessette*, Docket #FIC 2018-0003 n. 1 (emphasis added).

¹⁷ Ms. Braasch argues, without basis, that because the three documents in *Bona* constituted a single report, and the body camera footage in this case does not (Pl. Br. 15), the videotapes could be redacted. The tapes of the footage of the two students that evening are obviously interrelated, and it is entirely unclear how they could be redacted, since the entire point of the YPD interviews of the students was to address Ms. Braasch's allegations of trespass and harassment.

Respectfully submitted,

FOR THE DEFENDANTS

**ASSISTANT CHIEF, YALE
UNIVERSITY POLICE
DEPARTMENT; YALE UNIVERSITY
POLICE DEPARTMENT**

/s/ Aaron S. Bayer

Aaron S. Bayer

Robyn E. Gallagher

Wiggin and Dana LLP

20 Church Street

Hartford, CT 06103

Juris No. 067700

(860) 297-3759

abayer@wiggin.com

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was sent by electronic mail, on July 2, 2021,
to the following parties of record:

Marc J. Randazza
Jay M. Wolman
Randazza Legal Group, PLLC
100 Pearl Street, 14th Floor
Hartford, CT 06103
mjr@randazza.com
jmw@randazza.com

Kathleen K. Ross
Freedom of Information Commission
Commission Counsel
18-20 Trinity Street
Hartford, CT 06106
Kathleen.Ross@ct.gov

/s/ Aaron S. Bayer
Aaron S. Bayer